

which was not so in its natural state. There is certainly no obligation on the person who makes and maintains such a dam to continue to maintain it; if he ceases to do so, it becomes useless, and can only, if at all, be made useful by forming a joint stock company for the purpose of doing so; and if the Court of Common Pleas in *Boale v. Dickson* were right in thinking that, if the statute applies, a promise to pay sillage for the use and occupation of such works, in consideration that the plaintiff would allow the defendant to use them, should not be enforced, the Legislature have improvidently reduced the inducement to make the stream at such a part practically floatable. But, though this may be so, the question remains whether the words of the Legislature do not express an intention that, when the part of the stream could be used, it should be lawful for all persons to use it.

It does not seem to their Lordships that the private right, which the owner of this spot claims, to monopolize all passage there, is one which the Legislature were likely to regard with favour, and in the earlier legislation they had, without scruple, cast on the owners of "dams legally erected" the obligation, at their own expense, to make such dams passable for lumber; if the law was, (contrary to what is laid down in *Boale v. Dickson*), that reasonable compensation should be payable for the use and occupation of works maintained for the purpose of rendering the portion of the stream practically useful for floating purposes, there would be no hardship at all; if the Legislature had inserted a provision that such should be the law, there could have been no doubt of their intention. They have not inserted such a provision; but, though that makes the case somewhat difficult, their Lordships do not think it enough to justify what seems to them a somewhat violent departure from the plain meaning of the words.

Their Lordships will therefore humbly advise Her Majesty that the judgment of the Supreme Court should be reversed and that of the Court of Appeal restored. They do not think there is any reason for departing from the general rule that the costs of the appeal

should be borne by the unsuccessful party, the respondent.

Judgment of Supreme Court reversed.

Bethune, Q.C., (of the Ontario Bar), and *Jeune*, for the Appellants.

The Solicitor-General, McCarthy, Q.C., (of the Ontario Bar), and *Crump* for the Respondent.

LEGISLATION AT QUEBEC.

Au Rédacteur du LEGAL NEWS :

Monsieur,—Par la section 1ère du chapitre 28, de la 46ième Victoria, il était statué comme suit: "Tout jour juridique sera réputé jour de terme excepté pour l'instruction des causes inscrites sur le principal, etc."

Dans les districts ruraux où les termes de cour sont nécessairement rares, ce statut a fait un bien immense aux justiciables et à la profession en facilitant l'expédition des causes, chose tant désirée par tout le monde. Nous pouvions tous les jours procéder avec les exceptions préliminaires et défenses en droit, soit sur le mérite ou par motions pour les faire rejeter ou pour amender, de sorte que ces procédés, qui servaient généralement à retarder les causes, en perdant leur utilité étaient en partie disparus de la pratique. On ne cessait de se louer de ce changement. On s'étonnait d'avoir pu endurer si longtemps un système par lequel un débiteur obtenait quelquefois trois ou quatre mois de délai sur production d'une simple exception à la forme.

A notre grande surprise, voilà que pendant les derniers jours de la session on biffe cette importante section et on nous remet sous l'ancien régime. Pourriez-vous, M. le Rédacteur, nous donner la raison de ce changement rétrograde?

Sherbrooke, 22 juin 1884.

GENERAL NOTES.

The case of *Eno* illustrates the defects of our extradition laws. It is quite exasperating to a large part of the community that a criminal, guilty of so heinous an offence as he is accused of, may escape by crossing into Canada, and may live there in open luxury, almost within sight and hearing of those whom he has defrauded, and laugh at the laws. It would be well to have our treaties revised, especially our treaties with next door neighbours, and to have them enlarged so as to comprehend many more offences than are now covered by them. The advance of "civilisation" seems to have made possible some new crimes, undreamed of forty years ago, and just as worthy of relegation to the offended community for punishment as those now recognized. Even some old and familiar crimes might be added to those for which extradition will lie. It is worth while for sovereign nations to refuse to become asylums and Alsatias for each other's criminals.—*Albany Law Journal*.